

BEFORE THE FLORIDA JUDICIAL QUALIFICATIONS COMMISSION
STATE OF FLORIDA

SUPREME COURT OF FLORIDA
CASE NO. SC05-555

INQUIRY CONCERNING a Judge
NO. 04-455, JUDGE JOHN R. SLOOP

- - - - -

Orlando, Florida

September 22, 2005

10:29 a.m.

DEPOSITION OF:

HEIDI NAPOLITANO, M.D.

A P P E A R A N C E S:

LAURI WALDMAN ROSS, ATTORNEY AT LAW
 Two Datran Center
 Suite 1612
 9130 South Dadeland Boulevard
 Miami, Florida 33156-7818

Special Counsel for the Florida Judicial
 Qualifications Commission

MARC L. LUBET, ESQUIRE
 209 East Ridgewood Street
 Orlando, Florida 32801

- - - - -

I N D E X

TESTIMONY OF HEIDI NAPOLITANO, M.D.:

Direct Examination by Ms. Ross	3
Cross Examination by Mr. Lubet	45
Redirect Examination by Ms. Ross	58
Recross Examination by Mr. Lubet	64
Further Redirect Examination by Ms. Ross	65

CERTIFICATE OF REPORTER	67
-------------------------	----

E X H I B I T S

Exhibit A	8
Exhibit B	11
Exhibit C	27
Exhibit D	30
Exhibit E	31

1 The deposition of HEIDI NAPOLITANO,
2 M.D., was on Thursday, September 22, 2005,
3 beginning at 10:29 a.m., at the Office of
4 Heidi Napolitano, M.D., 417 East Jackson
5 Street, Orlando, Florida, before Deborah
6 Raeder Allen, Certified Electronic Reporter
7 and Transcriber, Notary Public, State of
8 Florida at Large.

9 - - - - -

10 Whereupon,

11 HEIDI NAPOLITANO, M.D.
12 having been first duly sworn by the reporter, testified
13 as follows:

14 DIRECT EXAMINATION

15 BY MS. ROSS:

16 Q Could you state your full name, please.

17 A Heidi, H-e-i-d-i, Napolitano,
18 N-a-p-o-l-i-t-a-n-o.

19 Q And what is your occupation?

20 A I am a psychiatrist.

21 Q Would you give us the benefit of your
22 educational background, please.

23 A I went to medical school at the University of
24 Tennessee College of Medicine.

25 Q And when did you graduate?

1 A In '98, June of '98.

2 Q And what degree did you obtain?

3 A Medical doctor.

4 Q Are you board certified in any specialty?

5 A I'm not board certified in any specialty.

6 Q How long have you been practicing as a

7 psychiatrist?

8 A Well, I did my psychiatry residency at the

9 University of Arkansas in Little Rock.

10 Q And how many years was that residency?

11 A It was four years.

12 Q When did you finish your residency at the

13 University of Arkansas?

14 A In let's see, 2002, June of 2002. I always

15 have to count out. And that was in psychiatry.

16 Q What did you do after you finished your

17 residency?

18 A I worked -- I was in Arkansas at the time so

19 I worked there in a community mental health center.

20 Q What community mental center did you work in

21 Arkansas?

22 A It was called Mid-South Health Systems.

23 Q And were you an employee of Middle --

24 Mid-South Health Systems?

25 A Yes. I was.

1 Q So the company was owned by other people and
2 you were salaried?

3 A Yes.

4 Q Okay. During the time period that you were
5 licensed -- well, strike that.

6 When did you obtain your license to practice
7 in Arkansas?

8 A Let's see, I was in residency, that would
9 have been 2001.

10 Q So you have been licensed in one state or
11 another since 2001 to the current date, for a total of
12 four years?

13 A Yes.

14 Q When did you obtain your license to practice
15 in Florida?

16 A Two years ago, so 2003.

17 Q Did you have to sit for any medical exams or
18 was there some type of reciprocity?

19 A For Florida?

20 Q For Florida.

21 A No. No. You have to fill out an application
22 for the license and they approve it.

23 Q So there was reciprocity for your license?

24 A Yes.

25 Q What brought you to Florida?

1 A My husband. He's from here.

2 Q Okay.

3 A So we just wanted to move back.

4 Q Okay. When you moved back to Florida, did
5 you open up your own practice?

6 A That's when I joined here.

7 Q And are you -- you say here, what are you
8 talking about?

9 A I'm on a contract basis here with them, so
10 they get a certain percentage of what I bring in.

11 Q When you say here, what are you talking
12 about? What's the name of the entity by whom you're
13 employed?

14 A APG Behavioral Health.

15 Q So the name of the entity which employs you
16 is APG Behavioral Health?

17 A Yes.

18 Q And you are a contract psychiatrist with
19 them?

20 A Yes.

21 Q And I'm not interested in your salary, just
22 in broad general terms, per diem, per hour, per week,
23 how are you paid?

24 A I guess, per client.

25 Q Per capita. Okay. Is there a certain number

1 of patients that you are required to see --

2 A No.

3 Q -- by your employer?

4 A No.

5 Q Okay. And who sets up the appointments?

6 A The front desk.

7 Q So when people call in and they call APG --

8 A Uh-huh.

9 Q -- they will set up appointments for you?

10 A Yes. They do.

11 Q Okay. How was it -- strike that.

12 How was it that you first got to meet Judge

13 John Sloop?

14 A He presented at the office for his initial
15 psychiatric evaluation.

16 Q So he called APG?

17 A Yes. He would have had to have called to
18 make an appointment.

19 Q He didn't know you in advance?

20 A No.

21 Q At the time that Judge Sloop presented at the
22 office of APG, does APG have any ordinary intake forms
23 that are filled out?

24 A Yes.

25 Q And could you identify in your file what the

1 intake form is for us?

2 THE REPORTER: [Handing]

3 MS. ROSS: Here are stickies.

4 THE WITNESS: Okay.

5 MS. ROSS: You can put A on the intake form.

6 THE WITNESS: [Examining] These two forms

7 here. What did you say, A?

8 MS. ROSS: Yeah. Just put an A on the intake

9 form.

10 THE WITNESS: On the form itself?

11 MS. ROSS: Yes. Because we're going to copy

12 and identify those.

13 THE WITNESS: Okay.

14 MS. ROSS: And then on a stickie, so you

15 don't mark up your records.

16 THE WITNESS: [Complies] Okay.

17 [Whereupon, Exhibit A was marked for

18 identification.]

19 BY MS. ROSS:

20 Q Now, is this a standard form that you give to

21 everybody to fill out when they step in the door?

22 A Yes. All adult patients, yes.

23 Q And the intake form calls for a general

24 family history?

25 A Yes.

1 Q Once the intake form is filled out by a
2 patient, what happens to it?

3 A It is given to me and I review it before I
4 call the patient back to talk with him. Then I go over
5 it with the patient if I have any questions.

6 Q Okay. This particular intake form appears to
7 have been signed by Judge Sloop on February 11th, 2005.

8 A Yes.

9 Q What is it that you understood from this
10 intake form that he was coming to APG for?

11 A From looking at the form, I would not know
12 the purpose of why he was coming here because he left
13 this blank.

14 Q And when you say he left this blank, what is
15 your reason for visit, is not filled out?

16 A Right. The question it says: What is your
17 reason for visit, is blank.

18 Q And ordinarily, you expect that to be filled
19 out; correct?

20 A Yes.

21 Q Now, if you would, Page 2 of the intake form
22 under occupational concerns, the only thing that is
23 being checked by Judge Sloop was stress.

24 A Right.

25 Q Was that the reason, as you understood that

1 he was coming to see you, is stress? Let me state it
2 another way.

3 Is that the only thing on this form that
4 would have indicated anything about what the patient
5 was there for or was there anything else that drew your
6 attention?

7 A There was nothing else that gave me any
8 indication as to why he was coming in. And, yes, you
9 know, I'm sure that I thought that could have been part
10 of why he was coming in.

11 But a lot of patients check that in, you
12 know, it has nothing to do with why they're coming in.

13 Q Is there anything but stress on the form that
14 would indicate to you what he was there for?

15 A No.

16 Q What did you do when you received the intake
17 form?

18 A Okay. So I usually look over it. It takes
19 me about one to two minutes usually and then I call the
20 patient back to my office.

21 Q When you call the patient back, do you make
22 any notes of your conversation?

23 A The only notes that I make are on the
24 psychiatric evaluation form, which is in the chart.

25 And you want me to mark that I'm sure.

1 MS. ROSS: Yes, please.

2 THE WITNESS: With what?

3 MS. ROSS: Put B on it. We'll do it in
4 order.

5 THE WITNESS: Okay. That's some of the
6 notes.

7 MS. ROSS: Let's see if we're looking at the
8 same thing. [Examining] No. I don't have a copy
9 of the intake form.

10 THE WITNESS: Oh, you don't. The evaluation.
11 Do you want me to get her to make another copy?

12 MS. ROSS: Hang on a second. [Examining]

13 THE WITNESS: Oh, that looks like it. That's
14 it. That's the back. It's three pages.

15 [Whereupon, Exhibit B was marked for
16 identification.]

17 BY MS. ROSS:

18 Q Initial Psychiatric Evaluation?

19 A Yes.

20 Q Now, this Initial Psychiatric Evaluation is
21 dated February 11th, 2005, which is the same date as
22 Judge Sloop appears to have signed the intake form.

23 A Yes.

24 Q How did you reach him, was it by telephone?

25 A He was in the office.

1 Q He was in the office. So immediately after
2 your review of the intake form, you saw the patient?

3 A Right.

4 Q And at that time, what did you do in terms of
5 filling out the psychiatric evaluation?

6 A Okay. Well, then I just opened up dialogue
7 with him and started asking him about his background
8 and the purpose for his visit. And proceeded to fill
9 out the form basically through the conversation.

10 Q Now, under CC, what is CC?

11 A CC is for chief complaint.

12 Q And the reason for referral, what does it
13 say?

14 A I have ADHD evaluation, which is apparently
15 what he told me. That's when I get that information.
16 And referred by his PCP, which would be primary care
17 physician.

18 Q Do you know who asked for an ADHD evaluation?

19 A At this time, it was my impression that his
20 primary care physician suggested to him that he get an
21 ADHD evaluation.

22 Q You don't know that the judge actually
23 suggested to his primary care physician that he thought
24 he might have it?

25 A No. I don't know that.

1 Q ADHD, I'm sorry. You don't know which way it
2 went?

3 A No.

4 Q Underneath there is the notation, HPI. What
5 does that mean?

6 A History of present illness.

7 Q Okay. And was there anything you gleaned
8 from that history that was important to you in making a
9 diagnosis?

10 A First of all, he has no psychiatric history
11 which means that he's never been treated for anything
12 in the psychiatric realm before. And he comes in for
13 evaluation of lifelong ADHD symptoms.

14 And then I go into the symptoms that he's
15 telling me he's had. How it started in elementary
16 school and then that he has many symptoms as an adult.

17 How it interferes with his relationship with
18 his wife as far as he's concerned. And then we filled
19 out also an ADHD symptom checklist.

20 Q Okay. Now, this is the part that I want you
21 to answer for me.

22 A Okay.

23 Q When it says under HPI, he came in for
24 evaluation of lifelong ADHD. Did you make a diagnosis
25 of lifelong ADHD or was he reporting to you that he

1 suffered from lifelong ADHD?

2 A He was reporting to me that he suffered from
3 lifelong symptoms that he felt were ADHD symptoms.

4 Q Okay. So he was self-diagnosing to you
5 before you made an assessment?

6 A I don't know if you call it that or not, but
7 that's what he was telling me.

8 Q Okay. And what were the symptoms of lifelong
9 ADHD that he reported to you?

10 A Okay. He says that he always -- was always
11 moving. I don't know if this -- my notes may not
12 clarify as much as you need, but let me know if you
13 need more. He said he was always moving and taking
14 extra time in elementary school.

15 By that, that's my abbreviation for taking
16 extra time in elementary school to get things done. He
17 was in trouble frequently for talking, being out of his
18 seat. And that's the only things I have down for
19 elementary school.

20 Q Did you ask him at any point whether this
21 affected his grades?

22 A I'm sure I did, but I don't have that down
23 here.

24 Q So it's not noted on your sheet?

25 A It's not noted on my sheet.

1 Q Did you ask him whether or not any teachers
2 had actually reported him as being in trouble or having
3 problems?

4 A He said he was in trouble frequently for
5 those things, but that was as far as I went with that.

6 Q And how long a period of time had this been
7 going on?

8 A Oh, this had started in elementary school, so
9 I'm not sure. I don't have it written down which grade
10 he said that started in.

11 Q Did you ask him why he had never gone in for
12 psychological or psychiatric evaluation before?

13 A I don't have it noted here that I did. What
14 he told me about that was that, you know, this is years
15 ago and was not something that was recognized or talked
16 about a lot. And, you know, his family was not the
17 kind that would take him in for an evaluation for
18 something like getting in trouble in school.

19 Q Okay. But this is a 56-year-old male. Okay.
20 When somebody has ADHD, you would expect that those
21 symptoms to last for a long period of time; correct?

22 A Yes. For ADHD, symptoms have to begin before
23 the age of seven.

24 Q And they have to persist throughout the
25 lifetime?

1 A Yes. They don't have to, but if you're
2 presenting as an adult, actually they can -- you can
3 have -- there is a provision in the diagnosis that will
4 say in partial remission.

5 Q Um-hum.

6 A So, you know, there may be periods where, in
7 my opinion, it would be, like, if you were treated you
8 would have partial remission of symptoms because
9 normally it affects all areas of your life otherwise.

10 Q Okay. But partial remission, how do you tell
11 the difference between partial remission and simply
12 being untreated?

13 A Being untreated?

14 Q Untreated.

15 A Well --

16 Q Maybe I'm not making myself clear. If
17 somebody went 56 years --

18 A Uh-huh.

19 Q -- without ever consulting a psychiatrist or
20 psychologist for their conduct, how do you ever know
21 whether the person was, in fact, in remission or simply
22 untreated?

23 A I don't know how you would.

24 Q Okay. What are the symptoms of ADHD?

25 A Okay. Do you mind if I refer to my --

1 Q Sure.

2 A Just so I won't miss anything. Okay. Of
3 course, this is from DSM-IV.

4 Q Um-hum.

5 A And what you have to have -- first of all,
6 there's Primarily Inattentive Type, Primarily
7 Hyperactive-Impulsive Type, or Combined Type. We have
8 symptoms of both.

9 Q Okay. And what was it that you had diagnosed
10 him with?

11 A I diagnosed him with Combined Type.

12 Q Okay.

13 A Now, for that you have to have six out of
14 nine inattentive symptoms and six out of nine
15 hyperactive or impulsive symptoms.

16 Q And what are the symptoms or the diagnostic
17 criteria that --

18 A That he had?

19 Q That he had.

20 A I'm going to go down the list. He had
21 actually all of the inattentive symptoms. These are:
22 Often does not give close attention to details or makes
23 careless mistakes in schoolwork, work or other
24 activities. Often has -- do you want me to slow down?

25 Q No. Go ahead.

1 A Often has trouble keeping attention on tasks
2 or play activities. Often does not seem to listen when
3 spoken to directly. Often does not follow instructions
4 and fails to finish schoolwork, chores or duties in the
5 workplace. Often has trouble organizing activities.
6 Often avoids, dislikes or doesn't want to do things
7 that take a lot of mental effort for a long period of
8 time. Often loses things needed for tasks and
9 activities. Is often easily distracted. And is often
10 forgetful in daily activities.

11 Okay. And then the hyperactive symptoms that
12 he had. He had four of those. Often gets up in his
13 seat when remaining in seat is expected. Often, for
14 adults, it's feels very restless, so often feels very
15 restless. Often has trouble playing or enjoying
16 leisure activities quietly. And is often on the go or
17 often acts as if driven by a motor.

18 And then the impulsive symptoms that he had
19 were: Often blurts out answers before questions have
20 been finished. Often has trouble waiting one's turn.
21 And often interrupts or intrudes on others.

22 Q Now, all of these symptoms, how is this --
23 how did you determine this? Was all this self-
24 reporting from him?

25 A It was self-reporting. He did -- let me get

1 my checklist. I don't think I noted it in the chart,
2 but he did the initial visit and the follow-up visit.
3 I remember him telling me that his -- about his
4 relationship with his wife.

5 Patient and wife both note improvement. It's
6 the second note. And all I have in reference to that
7 in the note is that it was interfering in his
8 relationship with his wife.

9 So it was all self-report. I mean, nobody
10 else offered any kind of reports about the symptoms.

11 Q Okay. Now, if other people reported that he
12 was deliberate, methodical, extremely arrogant, not
13 easily distracted, that his attention was very
14 concentrated, that he followed through on his tasks,
15 would that in any way influence your diagnosis?

16 A Well, it would. But I would probably want to
17 ask them other questions about -- because somebody can
18 appear to be organized or not distracted, but then if
19 you get into what they're really doing and how they're
20 keeping themselves organized, it may be a different --
21 you know, that story may be different.

22 And for ADHD people, it almost seems like
23 sometimes they could hyper focus on certain things like
24 reading if that's something that they really enjoy. Or
25 for kids a lot of times we see playing video games.

1 But that's very common to see in ADHD people. So just
2 because that happens doesn't mean that they can't be
3 easily distracted if they're doing something that's
4 either boring or requiring a lot of detail or something
5 like that.

6 Q In terms of family history, do people with
7 ADHD ordinarily have other people in their family who
8 had suffered from it?

9 A It is common. I don't have any percentages
10 on it. It is common that many times when we have a kid
11 that comes in with symptoms, that somebody in the
12 family will have symptoms also. But this isn't an
13 illness that has diagnosed and we look for it a lot
14 more now than we have in the past.

15 So just because somebody doesn't know the
16 family history doesn't necessarily mean there wasn't
17 somebody with that.

18 Q In this particular instance, though Judge
19 Sloop didn't report that anybody in his family had ever
20 suffered from ADHD before.

21 A He said nobody had ever been diagnosed with
22 it. He questioned whether -- let's see, who was it,
23 somebody in his family had -- I don't have down who,
24 but I have questionable for ADHD. But I don't know. I
25 didn't write down who specifically he was talking

1 about.

2 Q How did he present to you? Did you notice
3 any of these things during the time period of your
4 assessment?

5 A No.

6 Q Did he --

7 A Well, let me go to my mental status exam.

8 [Examining] No. He presented fine but
9 that's, you know --

10 Q I'm just -- you're sitting there and you're a
11 psychiatrist and you're hearing somebody report all of
12 these kinds that gives him a very high scale on ADHD.

13 Can we agree this far?

14 A Yes.

15 Q That he's all the things that he's reporting
16 to you would put him very high on the ADHD scale?

17 A Yes.

18 Q And you're looking at him. He doesn't appear
19 to be fidgeting?

20 A Right.

21 Q He doesn't appear to have attention -- have
22 problems following you?

23 A Right.

24 Q He appears to be concentrating and listening?

25 A Right.

1 Q He does not appear to be easily distracted?

2 A Right.

3 Q And he doesn't appear to be forgetful?

4 A Right.

5 Q You don't see him get up from his seat during
6 the time period that he's discussing things for you?

7 A No.

8 Q He doesn't appear to be restless?

9 A No. I didn't note that that I remember.

10 Q And he didn't appear to be, like, a motor
11 going on to you?

12 A No.

13 Q Did he interrupt you in any way that you
14 noticed?

15 A Normally if somebody interrupts me a lot,
16 I'll write that down. So if he just interrupted me one
17 or two times, I wouldn't have written that down.

18 Q You don't have any down?

19 A I don't have anything about that here.

20 Q Are there any more of the impulsive urges
21 that he reported to you that you noticed?

22 A No.

23 Q So with all the reports that he made to you
24 which would place him on the ADHD scale --

25 A Um-hum.

1 Q -- you didn't notice any of these things in
2 his presentation to you?

3 A No. But that's not uncommon. There are many
4 kids that, you know, have a lot of the symptoms when
5 they come in, and for the 45 minutes that they're in my
6 office, they're able to do fine.

7 And with adults, that's even more so. Plus,
8 there are no other distractions. There's just me and
9 him. You know, there's not a lot of other noise.
10 There's not a lot of other things going on around that
11 can distract. So that's why we have to go by history
12 to make the diagnosis.

13 Q Okay. When you say history, you're talking
14 about his self-reporting.

15 A Self-reporting history.

16 Q Okay. So you rely upon his self-report as
17 accurate in order to make the assessment in the first
18 instance?

19 A Yes. Yes. Unless I have reason to believe
20 otherwise. You know, for kids, a lot of times we'll
21 send reports to school. For somebody that comes in and
22 they're a judge, you know, I have no reason to believe
23 that they're lying to me because initially, I didn't
24 know what all was going on with him either.

25 Q That's my next point. At the time when he

1 came in to you, he didn't tell you that he was in
2 trouble in his job?

3 A I think towards the end of the first session
4 he did. I can't remember if he told me that day or the
5 next day, but I think it was the first meeting, toward
6 the end of it.

7 But I didn't -- because when he told me, I
8 was kind of shocked that I hadn't -- of course, I never
9 see TV anyway, but it's kind of hard to believe, I
10 guess, that I didn't know anything about it, but I
11 didn't. But anyway, so yeah, I didn't know anything.

12 Q Does the fact that he was a judge influence
13 you in any way in finding his complaints more credible
14 than any other patient or believing his complaints were
15 more credible by virtue of his position?

16 A Well, yes. I mean, because he was a judge
17 and he had been a judge for a lot of years. So, you
18 know, yeah, that makes him a more believable person to
19 me than somebody else.

20 Q And that was because of his position and that
21 he's been --

22 A And that he'd been in that position.

23 Q -- in that position for a long period of
24 time. And would it be fair to say that if somebody was
25 in this position for 14 years, that you would have

1 expected that they would have noticed careless
2 mistakes, keeping their attention, inability to listen,
3 long before 14 years later?

4 A You would expect that they would have had
5 problems with that. Whether they would have realized
6 that it could be from something like ADHD and sought
7 treatment for that, you know, I don't know. That's
8 another story.

9 Q Is there any type of a trigger that -- I
10 mean, when I say trigger, any type of specific event
11 that triggers ADHD, or is it something that somebody's
12 born with?

13 A No. As far as we can, something that
14 somebody's born with.

15 Q Is there any trigger that makes it more
16 symptomatic?

17 A Any kind of -- I guess, you could call it
18 stress. In other words, if there's a lot of
19 distractions around, if there's a lot more pressure.
20 In other words, more things to do one day because, you
21 know, they are more easily distracted, they do have
22 more trouble concentrating, so they're going to get
23 frustrated and overwhelmed more easily which can cause
24 outbursts.

25 Yeah. So either more distractions or feeling

1 overwhelmed, the workload is too much.

2 Q But, in fact, stress is a trigger, if the
3 judge had been subject to stress --

4 A Um-hum.

5 Q -- you would have expected this to have come
6 out before now?

7 A Um-hum. Well, according to him, he's had
8 these symptoms, you know, all this time. He just, I
9 guess, it had not gotten him in trouble before this
10 time. So he had not sought any help before this time.

11 Q Just so I understand, he came to you and he
12 said, I've been suffering from ADHD all my lifetime?

13 A He -- I think what he said was: I think this
14 is what's been going on with me.

15 Q Okay. But you're not the person who
16 suggested what he had, he already came to you and said
17 that he comes in for evaluation of lifelong ADHD
18 symptoms.

19 A Yeah. Because his primary care physician
20 told him to come in. So I don't know if the primary
21 care physician suggested that or if he said that to him
22 too. I don't know.

23 Q And the primary care physician, do you have
24 the name of the doctor?

25 A Dr. John Ryan.

1 Q Is he local?

2 A I don't know where he is actually.

3 MR. LUBET: He'd be in Orlando or Sanford.

4 THE WITNESS: I think he's in Orlando because
5 that name sounds familiar to me.

6 BY MS. ROSS:

7 Q Okay. When you went through the symptoms of
8 ADHD with Judge Sloop, he appeared to be very
9 knowledgeable about what those symptoms were; correct?

10 A Well, what we did, he didn't just start
11 telling me symptoms, I pulled out my checklist, which
12 is in the chart. Do you want me to label that C?

13 Q Yes. Please.

14 THE WITNESS: I'll label that C.

15 [Whereupon, Exhibit C was marked for
16 identification.]

17 THE WITNESS: And we started going through
18 those together. So I don't know if he was already
19 familiar with all the symptoms or not.

20 BY MS. ROSS:

21 Q You don't know whether as a judge, he comes
22 across things, like, ADHD and a DSM-IV --

23 A Right.

24 Q -- you don't know whether -- let me restate
25 it.

1 You don't know whether, in the course of his
2 job as a judge for over 14 years, he has heard about
3 every type of mental illness known to man listed in the
4 DSM-IV?

5 A I don't know if he has or not.

6 Q And you don't know whether he read up on
7 those symptoms in advance of coming?

8 A No. I do not know that.

9 Q Okay. Other than the self-report, what else
10 did you rely upon in making your diagnosis?

11 A To make the initial diagnosis that is, well,
12 I relied upon his self-report and then the symptom
13 checklist.

14 Q Which is also --

15 A Which is also a self-report, yeah, checklist.

16 Q There are no objective tests, as I understand
17 it, for ADHD?

18 A That's right.

19 Q So everything that you rely upon in making
20 your assessment is based on what the patient tells you?

21 A Yes.

22 Q Is there any type of psychological testing,
23 such as an MMPI-2 that can check for ADHD?

24 A MMPI-2 does not check for ADHD. There are --
25 and you're going to want the name of them and I can't

1 get them off the top of my head. There is some
2 psychological testing that can be done that can kind of
3 point you that, yes, this could a problem, or no, it
4 cannot be. There are no tests that can make a
5 diagnosis for you.

6 Q Okay. And you have not seen any of those
7 videotapes of how Judge Sloop actually performs in the
8 courtroom?

9 A No. I haven't.

10 Q He has not shown to you -- he has not shown
11 you anything in terms of --

12 A No. The only thing that I had is what he
13 brought in, the statements from the police officers, I
14 believe it was.

15 Q And that's the next thing I want to get to.

16 A Okay.

17 Q Okay. And that is, I noticed in your file
18 that you have a series of statements that were made by
19 officers in the sheriff's department as to what
20 happened on December 3, 2004.

21 A Yes.

22 Q And with the arrest of 13 individuals --

23 A Yes.

24 Q -- by Judge -- the ordering of the arrest of
25 the 13 individuals by Judge Sloop because they were in

1 the wrong courtroom.

2 A Yes.

3 Q When did he bring those statements to you?

4 A [Examining] It was either on his second or
5 third visit which the second was March 7, 2005, and the
6 third visit was April the 8th, 2005.

7 And I'll tell you this. He had asked me to
8 write a statement saying that he had ADHD and some of
9 the symptoms that could cause which should be in here
10 somewhere. And he brought those to me.

11 Q Is this --

12 A When he asked me -- yes. That's it.

13 Q Okay.

14 A When he asked me to write that because he
15 said he wanted me to have a good understanding of what
16 had happened.

17 MS. ROSS: Okay. Let's mark this.

18 [Whereupon, Exhibit D was marked for
19 identification.]

20 BY MS. ROSS:

21 Q I'm going to ask you to copy your file with
22 the documents that we've already marked A, B, C, D.

23 A Okay.

24 MS. ROSS: So let's go ahead and mark this as

25 E.

1 THE WITNESS: Okay.

2 MS. ROSS: And that is the affidavit.

3 [Whereupon, Exhibit E was marked for
4 identification.]

5 MR. LUBET: May I take a look at that?

6 MS. ROSS: Sure.

7 THE WITNESS: Is this D here? These things?
8 I've got A, B, C, but I don't remember D.

9 BY MS. ROSS:

10 Q D would be the statements.

11 A These [indicating]?

12 Q Yeah.

13 A Okay. Okay.

14 Q And E will be your affidavit.

15 A Okay. I wonder, do you have any idea how
16 much longer?

17 Q Probably about 25 minutes.

18 A Okay. Let me step out.

19 MR. LUBET: Can we get a copy of that because
20 I'd like to --

21 [Whereupon, a recess was taken, after which
22 the following transpired:]

23 BY MS. ROSS:

24 Q In looking at Exhibit E, is this the
25 affidavit that Judge Sloop asked you to sign?

1 A [Examining] Yes. It is.

2 Q And at the point that he asked you to sign
3 this affidavit, did he tell you that the reason why he
4 wanted it is because he had a serious problem with the
5 Judicial Qualifications Commission?

6 A Yes. He did.

7 Q And did he complain to you -- strike that,
8 wrong word.

9 Did he verbalize the fact that he thought
10 that his problems resulted from his ADHD?

11 A He asked me if I thought the ADHD could
12 contribute to him having these difficulties.

13 Q And what were the difficulties that you
14 understood that he was in trouble for?

15 A That -- well, basically, I read the
16 statements from the officers that he brought to me and
17 -- I'm trying to think the words that he used. That he
18 was coming across as not caring and making -- I don't
19 know how he said it. But basically being harsh with
20 people and unfair.

21 Q Did you understand that he was told that the
22 people were in the wrong courtroom and that he insisted
23 on jailing them nonetheless?

24 A Yeah. That was my understanding.

25 Q Okay.

1 A Yeah.

2 Q Now, do you think that that was impacted by
3 ADHD in some way?

4 A I think -- well, let me just read what I
5 wrote here. Because he -- quick temper. It sounded
6 like that he was very frustrated, that he made a very
7 rash decision kind of spur of the moment. And that he
8 came across as just not wanting to deal with it. That
9 was my impression and those things certainly could be a
10 result of ADHD.

11 Q Okay. Did Judge Sloop report to you that a
12 bailiff had specifically told him that the people were
13 in the wrong courtroom and that he told the bailiff it
14 didn't matter because the arrest warrants were already
15 issued?

16 A Yes. I do know that.

17 Q Do you think that was impacted in some way by
18 ADHD when somebody makes a decision and refuses to
19 change it?

20 A Ask me that again.

21 Q Yeah. Do you think -- does ADHD cause a
22 person to dig their heels in and insist that they're
23 right, when they're flat out wrong and they're told
24 that they're wrong?

25 A It can make them not think things through

1 completely.

2 Q But it doesn't make them ignore the law or
3 ignore the facts?

4 A No.

5 Q So in making a decision, if that decision was
6 deliberate after somebody had specifically told them
7 what the facts were, you would not attribute that to
8 ADHD?

9 A I don't know how I can answer that. If I can
10 answer that question specifically. It could be that he
11 was not thinking things through. If he was being
12 impulsive, you know, if he was feeling overwhelmed, he
13 could make a very impulsive decision.

14 Q I can understand you saying that the
15 impulsive decision was to issue the arrest warrants.

16 A Right.

17 Q Okay. But --

18 A Because he didn't think through the
19 consequences --

20 Q Of what he did.

21 A -- of what he did.

22 Q But now I want you to assume that the Judge
23 has admitted that a bailiff told him that the people
24 were in the wrong courtroom and that they shouldn't be
25 arrested because they were present and they were on the

1 premises and gave him the opportunity to change his
2 mind. Do you consider that an impulsive act
3 attributable to ADHD for him to refuse to change his
4 mind?

5 MR. LUBET: Let me object only because --
6 and, of course, you can answer the question,
7 because I don't remember -- and it may be a memory
8 problem of mine -- that a bailiff told him that
9 they shouldn't be arrested, only that they were in
10 the wrong courtroom.

11 If a bailiff -- hypothetically, if a bailiff
12 said that, then certainly answer the question.

13 THE WITNESS: Well, we have the statements
14 from them. Still, I could still see, you know,
15 maybe he didn't hear completely what the person
16 said. And I'm not -- I'm just trying to tell you
17 how ADHD played a part in this.

18 BY MS. ROSS:

19 Q Right. I understand.

20 A I'm not trying to defend him, but, you know,
21 ADHD a lot of times you don't always hear completely
22 what people say to you because you're off thinking
23 about something else in your mind, or you're distracted
24 by something, or you just don't get it all.

25 So it could be that, you know, maybe he heard

1 the first part of what he said, but he didn't hear the
2 last part. And then again, not thinking through.
3 Okay, if I do this, then this will happen and then this
4 will happen and this will happen.

5 So, yeah. I mean, even if somebody said that
6 to him, ADHD could play a part in you making a bad
7 error in judgment or bad judgment like that.

8 Q Okay.

9 A It could.

10 Q Now, ADHD, again, could make an error of
11 judgment in terms of issuing arrest warrants in the
12 first place?

13 A Yes.

14 Q I want you to assume for a second that the
15 Judge has testified that after he issued the arrest
16 warrants, he was then confronted by the deputy who said
17 that some of the Defendants had been in another
18 courtroom and that I should not issue bench warrants
19 for their arrest. And the Judge responded, that that's
20 a problem because the warrants have already been
21 issued.

22 A Okay.

23 Q Do you attribute his refusal to reconsider
24 his ruling to be impulsive?

25 A I consider that initial statement could have

1 been impulsive. You know, it could have been. That's
2 all I can say was it could have been, I guess.

3 Q Would you agree with me that the more time
4 that goes by that --

5 A And what he told me was that, you know, he
6 did begin to think that, you know, maybe he should have
7 gone back and done -- not had them arrested.

8 Q Well, let's go --

9 A But initially, you know, yeah, that was a
10 rather rash decision and, you know, I think he was
11 annoyed which could be from the ADHD as well. So
12 anyway, go ahead.

13 Q Would you agree with me that the more time
14 that goes by, that allows somebody to go deliberate,
15 the more it can be attributed to conscious action as
16 opposed to rashness of decision?

17 A Yes.

18 Q Okay. And so if there was a period of time
19 that went by, that Judge Sloop had to deliberate over
20 his conduct and did nothing, would you agree with me
21 that that would negate attributing his action to ADHD?

22 A The more time that went by the -- I mean,
23 initially, it still could have been through the ADHD,
24 but then it should have been more likely to be
25 corrected as more time went by.

1 Q And do you know how long a period of time
2 went by before Judge -- and how many people spoke to
3 Judge Sloop before he actually --

4 A I don't know how many people spoke to him.
5 And I don't remember if I'm remembering this right, but
6 it seems like it was a few hours; is that about right?

7 Q That's about right.

8 A Okay.

9 Q Did he show -- strike that.

10 Assuming for a second that people have
11 described him as being arrogant, refusing to listen,
12 berating people in the courtroom, and there's objective
13 evidence to show that, okay, are those symptoms of
14 ADHD?

15 A Yes. Can I refer?

16 Q Absolutely.

17 A [Examining] What I'm referring to now is the
18 book that we saw that I have a couple pages copied
19 from. A book that is called You Mean I'm Not Lazy,
20 Stupid, or Crazy and it is a subtitle of self-help book
21 for adults with attention deficit disorder.

22 There's a lot in there that could be useful,
23 probably is, but one particular thing, statement that I
24 wanted to point out. Another manifestation of this
25 generalized irritability, it's talking about

1 irritability in people that have this, having a short
2 fuse.

3 It says: Another manifestation of this
4 generalized irritability has less to do with pessimism
5 than with a feeling of being constantly annoyed by
6 other people and events.

7 The ADD air they called it. Might be
8 sarcastic, rude, or abrupt with others. There's a lot
9 of things in here I left out, but that's just the only
10 thing I copied.

11 Q Okay. We'll return to that in a second, but
12 what was the course of treatment that you have -- well,
13 strike that.

14 Have you made a diagnosis of Judge Sloop?

15 A Yes. ADHD Combined Type.

16 Q And where does that fall under DSM-IV?

17 A I'm not sure.

18 Q What could you tell us what -- you have
19 listed under it, your assessment sheet.

20 A Yes.

21 Q 342.81.

22 A .01.

23 Q .01. Is that taken from DSM-IV?

24 A The number is actually from the ICD codes,
25 which is -- it's just a coding manual that we use for

1 billing basically.

2 Q Okay.

3 A That's how those come about.

4 Q In terms of the DSM-IV Manual, could you
5 identify for me where your diagnosis falls and feel
6 free.

7 A Okay. This is basically background, general
8 information at the beginning of the chapter.

9 Q When you say this, you're referring to Pages
10 78 to 79?

11 A Yes.

12 Q Okay.

13 A In the DSM-IV, yes. Background information
14 about ADHD. And then you get to the criteria, the
15 diagnostic criteria, and this is what I used to make
16 the diagnosis.

17 Q And when you're talking about diagnostic
18 criteria, you're referring to the DSM-IV, Pages 83
19 through 85?

20 A Yes. And this is what we went over initially
21 when I was going through the inattentive, hyperactive
22 and impulsive symptoms. Basically, what I did for that
23 is, I went down the list and just named the ones that
24 he had.

25 Q Okay. And ADHD also is a diagnosis for

1 somebody who does not fall into other categories.

2 A Right.

3 Q They do not have other mental illnesses.

4 A Right.

5 Q If, in fact, Judge Sloop is suffering from
6 some other type of mental illness, then ADHD would be
7 ruled out?

8 A Not necessarily.

9 Q Okay.

10 A It frequently is what we call co-morbid, or
11 exists with another mental illness. But to make the
12 diagnosis, you have to make sure that the symptoms are
13 not from the other illness.

14 Q Okay. So you have to rule out other
15 illnesses?

16 A Right. Right.

17 Q Now that you've made the diagnosis, what is
18 your course of treatment?

19 A Medication is one course of treatment. The
20 other course of treatment is, we recommend, I guess,
21 we'll call it behavioral therapy, which is usually with
22 a therapist, with a psychologist.

23 And anger management may or may not be a part
24 of that, depending on whether those particular things
25 have been an issue for the person. So my part of it is

1 medication and then I'll refer to somebody else for --

2 Q Okay. And what type of medication do you
3 have in mind?

4 A He is on Concerta.

5 Q What is Concerta?

6 A Concerta is -- the generic name for Concerta
7 is Methylphenidate. It's an extended release form of
8 that.

9 Q Of what type of medication?

10 A It is a stimulant medication.

11 Q Stimulants counteract hyperactivity?

12 A Yes. Isn't that odd. Yes.

13 Q Does coffee have the same effect?

14 A It has somewhat the same effect, but it's --
15 yeah. It's not -- it's hard to go into all the science
16 of that.

17 Q Yeah.

18 A But it's basically -- it doesn't work well
19 for ADHD. Although it's funny because ADHD people
20 usually have a different reaction to caffeine than,
21 like, I would. It would make me jittery and hyper. It
22 usually calms them down.

23 Q And did you note the fact that Dr. -- I mean,
24 Judge Sloop had any coffee the morning that he came to
25 see you?

1 A I'll check and see because I usually ask
2 about that. [Examining] No. I don't think if he had
3 any that day or not.

4 Q Okay.

5 A He tells me that some days he doesn't have
6 any and sometimes he has several a day. Several cups
7 of coffee.

8 Q Okay. Now, I want you to assume for a second
9 that ADHD caused Judge Sloop to be rude, sarcastic,
10 abrupt, arrogant, nasty to other people, failed to
11 listen, made careless mistakes, are those qualities
12 that you would want in a judge before you had to appear
13 in your personal case?

14 MR. LUBET: I'm going to object. It's a
15 totally unfair question for her, but you can
16 answer it.

17 BY MS. ROSS:

18 Q You can answer it.

19 A I'm probably am not the right person to ask
20 because I happen to know that there's a lot of very
21 well-qualified people that are doctors, lawyers,
22 judges, a lot of very smart people that have ADHD and
23 do very well in their occupations.

24 I would prefer to be in front of somebody
25 that was treated for it. Yeah. Because, again, some

1 of the, you know, judgments may be a little abrupt.

2 Q As some of the -- going back again to your
3 personal -- these are not qualities that are desirable
4 in a judge; are they?

5 A No. No. But again, once it's treated, it's
6 usually --

7 Q Okay. Now, Judge Sloop has reported that
8 immediately upon medication he was treated and he's
9 fine. Is that what your testimony is?

10 A My testimony is that most of his symptoms,
11 again, by self-report, seem to have improved greatly,
12 which is very common, because these medications, they
13 work the same day that you give them, and they have
14 over 90 percent efficacy, which is better than most
15 anything else we have.

16 Q You don't know whether his demeanor in court
17 has changed at all?

18 A I do not.

19 Q Okay. And you don't know if his treatment of
20 other people in the court changed at all?

21 A No.

22 Q Is there any way for you to know?

23 A Not without -- I guess I could call people
24 and talk to them.

25 Q That's the only way that you --

1 A The only way.

2 Q Because you relied upon him to self-report
3 with regard to the initial diagnosis and you rely upon
4 him to self-report to say that he's now completely
5 better?

6 A Yes.

7 MS. ROSS: Okay. I don't have any other
8 questions. Yours.

9 CROSS EXAMINATION

10 BY MR. LUBET:

11 Q Doctor, I think you had stated earlier people
12 learn to cope with ADHD and display symptoms not
13 consistent with ADHD? Is that a learned behavior that
14 people over the years can learn to do?

15 A Yes. Many adults that I have seen and
16 diagnosed and treated, you know, have symptoms all
17 through childhood and never got treatment for one
18 reason or another. And, you know, they have learned to
19 do what they need to do to get by. But usually,
20 especially if they're coming in to me, there's a
21 reason, you know, it's causing them problems in some
22 area.

23 For a lot of people, it's personal
24 relationships, you know. A lot of times you'll see at
25 work, they're not following through on things, they're

1 going ahead and getting trouble at work for whatever
2 reason. Usually, it's non-productivity.

3 Q Well, could a person such as Judge Sloop
4 learn to control this behavior generally, but have
5 episodes where it is not in control? I mean, is that
6 -- if it's untreated?

7 A The fact that it's went on this long with him
8 tells me that he has developed some coping mechanisms
9 for it.

10 However, those are only going to work to a
11 certain degree. When things get, like I said, if there
12 does get to be too much on his plate, too many people
13 coming at him at one time, too many distractions, well,
14 then, those coping mechanisms probably aren't going to
15 be enough to take care of it.

16 Q Would it surprise you knowing his diagnosis
17 to know that on three other occasions, he had been
18 reported to the Judicial Qualifications Commission and
19 they had, for whatever reason, found that they were not
20 going to discipline him for those incidents but for
21 inappropriate behavior.

22 A That would not surprise me. It would
23 surprise me more if this had been the only time that
24 he'd ever had any difficulty --

25 Q I think one of them --

1 A -- since he's had these symptoms all this
2 life.

3 Q I believe one of them is and, Lauri, you
4 correct me if I'm wrong, I think one of them is even
5 where he pulled a handgun in the courtroom.

6 A Oh, my goodness.

7 Q This was 14 years ago. But is that type of
8 behavior consistent with the anger and poor judgment
9 that ADHD people -- he didn't shoot anybody, that ADHD
10 would display?

11 A Yes. Yes. It could be. Absolutely.

12 Q Okay. Is there something other than -- I
13 don't know how to ask this. You're a psychiatrist.

14 A Um-hum.

15 Q Part of your job in making your diagnosis is
16 sitting and talking to people and hearing what they
17 have to say; is that correct?

18 A Yes.

19 Q And deciphering what they have to say into
20 what you may believe are symptoms of some psychiatric
21 condition? In other words, you listen to what they
22 have to say and then you determine from that; is that
23 correct?

24 A Yes.

25 Q Okay. When you -- does psychiatry normally

1 -- and I guess that's where -- and once again, I'm
2 confused a little bit, but does psychiatry normally
3 allow people to self -- come in and tell you, I think I
4 have ADHD? Tell you, here's my symptoms, and then
5 based just on what they have said are their symptoms,
6 you would treat them for some illness. Is that
7 standard in psychiatry?

8 A Yeah. It's very common in psychiatry.
9 I mean, depending on what setting they're in.
10 You know, if you're in a hospital setting, it's easier
11 to get history a lot of times.

12 Q Now, if you're dealing with berserko, that's
13 a different story.

14 A Yes. Exactly.

15 Q That's not a medical term obviously.

16 A Yes. But --

17 MS. ROSS: That's a Marc Lubet term.

18 MR. LUBET: That's a Marc Lubet term. That's
19 good.

20 THE WITNESS: That's in there.

21 MR. LUBET: That's a legal term.

22 THE WITNESS: But, yes, it's very common to
23 just base the illness on what the person tells
24 you.

25 BY MR. LUBET:

1 Q Okay. How do you know -- I guess, this is a
2 question Lauri was getting to. How do you know they're
3 not just giving you a load of crap?

4 A You don't. You don't. You know, a lot of
5 times if I question whether somebody's being honest
6 with me, then I will ask them to sign a release so that
7 I can talk to their spouse or an employer, which would
8 be highly unlikely. Because they really don't want me
9 to do that.

10 Or, you know, somebody else that might know
11 them.

12 Q Do you have any reason in the world to
13 believe that John Sloop was not being honest with you?

14 A No. Again, his occupation, the fact that
15 he'd been in it for several years, the fact that he'd
16 been married for several years. You know, it's just so
17 many things that point to stability as far as being an
18 honest person. So there was no reason to suspect that
19 he wasn't honest.

20 Q And to this day, do you have any doubts he
21 was telling you the truth?

22 A No. I don't. Especially given when he
23 reports to -- well, again, self-report, but his
24 relationship with his wife is even better now and from
25 what I hear, there have been no incidents at work.

1 And he seems to be genuinely remorseful and
2 shows more insight into, oh, my gosh, what did I do all
3 those years, you know, than a lot of people that I see.

4 Q And that's -- I want to ask you a couple
5 quick questions about that. Did you get a sense from
6 him of remorse for the incident in December where the
7 people went to jail? A true sense of remorse?

8 A Oh, absolutely. He's told me pretty much
9 every time that I've seen him that it was wrong. He
10 was wrong. He shouldn't have done that.

11 And he says he's comforted by the fact that
12 he now knows that there's something, that it wasn't
13 just him, you know, that there was something that
14 contributed to that.

15 Q And this medication you've got him on, if he
16 stays on that medication, which I'm assuming you
17 would --

18 A Absolutely.

19 Q -- order him to do as his doctor --

20 A Absolutely.

21 Q -- if he stays on that medication, do you
22 anticipate -- I know you can't read the future, but
23 would you anticipate the type of behavior that he had
24 displayed in the past in the future?

25 A I would not expect that in the future. If he

1 stays on the medication, if he completes the therapy, I
2 would not expect that.

3 Q Okay. This medication you said has a 90
4 percent effective rate?

5 A It's usually over 90 percent. You can see
6 them as high as 95 percent.

7 Q Is it an older medication or new medication?

8 A Methylphenidate, which is the primary
9 ingredient in Concerta has been out for over 40 years,
10 almost 50 years now, I think. So, yeah, it's not a new
11 medication.

12 Concerta has only been out a few years, but
13 basically what they've done is, they've taken it and
14 made it an extended release --

15 Q Right.

16 A -- so that it lasts all day.

17 Q And that helps dissipate the symptoms of
18 ADHD?

19 A Yes. Yes. Do you want me get into how it
20 works in the brain? But basically, it makes you more
21 focused. You're not as easily distracted.

22 Q Does it have an effect on frustration levels?

23 A Oh, absolutely. Because you can focus on
24 what you're doing. You're not distracted by other
25 people. When people are talking to you, you can pay

1 attention. You can -- for instance, I use the example
2 of kids in school because they so easily get frustrated
3 when the teacher is talking and they can't get
4 everything. Or they were daydreaming for a while and
5 then all of a sudden the teacher is done and they don't
6 know what they're supposed to do, you know, and it's
7 very frustrating.

8 Q Does the frustration lead to anger?

9 A Absolutely. It's well-documented, yes.

10 Q Okay. Now, how many times have you seen
11 Judge Sloop at this point?

12 A I've seen him. Let me count. [Examining]
13 Five times.

14 Q Okay. Have you been able to see in the five
15 times you've seen him since now that he's on
16 medication, do you see any change in him? Have you
17 noticed any change yourself in him?

18 A Well, as far as being in the office and
19 observing him physically, I don't see a lot of change
20 in him. But again, the first time, you know, there
21 wasn't a lot.

22 I mean, you don't expect to see -- sometimes
23 in the hyperactive kids, they'll be all over the place,
24 but adults, like I said, have learned to control that.
25 So I haven't seen any changes in him physically.

1 The only changes that I've seen, I guess,
2 have been that again, when he reports as far as with
3 his wife, and as far as reports of what he sees in
4 himself, you know, he says he's just -- things don't
5 bother him as much as they used to, so he doesn't get
6 annoyed as easily. He doesn't get, you know, so
7 intense with people as easily.

8 Q Right.

9 A Because he's just able to control himself
10 better.

11 Q You were asked which -- questioned by Ms.
12 Ross about with these symptoms, was this the type of
13 judge you would like to be in front of. If he had had
14 those symptoms, but now is under treatment, would you
15 have any problem being in front of a judge who is
16 being treated like that?

17 A Not at all.

18 Q Okay. Now, let's say he had shows -- he had
19 shown sudden outbursts of anger, explosive anger, mean,
20 and I'm not saying he did all these things, I'm just
21 saying, but for --

22 A Let's assume.

23 Q Let's assume he had sudden outbursts of
24 anger, he was mean, he yelled at people, he harshly
25 punished people, and maybe sometimes in anger, I don't

1 know. And these are all assumptions.

2 And that he displayed a real aggravated, at
3 times, not always, of course, but at times, an
4 aggravated short temper, would these be signs -- would
5 you -- if you heard this about somebody, would you
6 immediately think there may be an ADHD problem with
7 this person?

8 A Well, with my background, I would certainly
9 think that that could be a possibility.

10 Q I mean, are all those --

11 A There are other things that could be a
12 possibility, too.

13 Q Sure.

14 A But, yeah.

15 Q But, I mean, are all those -- could all those
16 be symptoms of ADHD?

17 A Absolutely. Absolutely.

18 Q Okay. Now, you don't have any evidence, do
19 you, that he didn't have these problems, or notice
20 these symptoms for the past 14 years?

21 A No. No evidence that he didn't any problems.

22 Q Like I said, if he had them, they may have
23 displayed themselves?

24 A Yes.

25 Q Or he may have learned to cope with them on

1 many occasions?

2 A Yes.

3 Q Okay. Do most do -- I can't say most. Do a
4 lot of adults learn better behavior even though they
5 still have untreated ADHD?

6 A Right. Yes. Yes.

7 Q Okay. I think I asked you, but I don't want
8 to be redundant because I know we all need to get out
9 of here. But ask you, is most -- are there other
10 diagnoses in DSM-IV or whatever diagnostic tools you
11 use, that diagnosed almost exclusively through self-
12 reporting?

13 A Most diagnoses in DSM-IV are diagnosed almost
14 exclusively through self-reporting. Yes.

15 Q Okay. So it's not unusual that just using
16 self-reporting to find ADHD is an unusual practice?

17 A It's not at all unusual.

18 Q And psychiatrists, in your experience, do
19 this every day using just self-reporting?

20 A Yes.

21 Q Okay. Another question was asked about his
22 impulsiveness. Is impulsiveness -- for instance, he
23 says, and counsel is correct, he was told these people
24 were -- he had issued arrest warrants for them because
25 they were not in his courtroom. He then was told that

1 the people were in the wrong courtroom.

2 Now, I want to set up a scenario very
3 briefly. It's not unusual for judges to issue arrest
4 warrants for people when they're not in the courtroom
5 when their names are called. That happens a lot.

6 But he then finds out they're in the wrong
7 courtroom and makes a statement, the warrants are
8 already issued, too bad. Almost a I don't care
9 attitude.

10 Q Um-hum.

11 A Is that consistent with a person with ADHD?

12 A Yeah. Yeah. It is.

13 Q Now, he was going out to lunch. And I'll
14 tell you right now, he was supposed to be headed out to
15 lunch and was going -- he didn't really eat lunch, he
16 was running some errands or something over lunch that
17 day.

18 This lack of focusing on other things, that's
19 a consistent pattern with ADHD?

20 A Yes.

21 Q Unable to focus on this when you've got your
22 mind focused on something else?

23 A Exactly. Exactly. Like I said, a lot of
24 times you'll see a focus in one area and then they're
25 all over the place in other areas.

1 Q Okay.

2 A In things that are either boring or
3 uninteresting or very detail oriented, you know, that
4 would require a lot of thought and those instances no
5 focus.

6 Q Well, let me give you one other quick
7 scenario, and counsel knows of this, and I found out
8 about it right around the time she did.

9 He's in a courtroom. A woman had come to the
10 courtroom who had owed court costs for about two years
11 and hadn't paid them. And she's in front of him and he
12 explodes. He just -- he does treat her harshly and
13 rude. He doesn't incarcerate her, and virtually
14 screams and yells at her in the courtroom.

15 Is all that consistent with your diagnosis?

16 A Explosive outbursts are not uncommon at all
17 in someone that has ADHD.

18 Q Okay. And as we sit here today, are you
19 still, within a reasonable degree of medical certainty,
20 certain that he has ADHD?

21 A Oh, absolutely he has ADHD. Yes.

22 MR. LUBET: Okay. Thank you. I have nothing
23 further.

24 MS. ROSS: Let me ask a couple more.

25 MR. LUBET: Okay.

1 REDIRECT EXAMINATION

2 BY MS. ROSS:

3 Q The reason why you didn't see a lot of change
4 in his behavior is he appeared perfectly normal to you
5 when he came in, and he appears perfectly normal to you
6 on each of the occasions that he came in after you made
7 the diagnosis?

8 A Yes.

9 Q Okay. Now, you were asked with regard to
10 prior complaints that were made about him going back
11 for 14 years.

12 A Um-hum.

13 Q Would telling someone, I like your spirit for
14 a black woman, be attributable to ADHD?

15 MR. LUBET: He's not being charged with that
16 now. So I'm going to object. But, yes, I brought
17 it up.

18 MS. ROSS: Do you think that kind of a
19 statement is attributable to ADHD?

20 THE WITNESS: Well, again, a lot of people
21 who have ADHD are very impulsive. And they'll say
22 the first thing that comes in their head. They
23 won't -- you know, a lot of people with ADHD get
24 themselves in trouble, like I said, at work for
25 comments they shouldn't make, you know,

1 interrupting other people to say something, so
2 yeah.

3 BY MS. ROSS:

4 Q And incarcerating somebody, putting them in
5 contempt because he thought she was referring to him as
6 being stupid?

7 A It could be. It could be.

8 Q So, in other words, there's no way to control
9 Judge Sloop putting somebody in jail impulsively
10 because of this ADHD, assuming he was untreated?

11 A If he was untreated, yeah. Maybe he could
12 make some inappropriate -- yeah.

13 Q For 14 years while he was sitting on the
14 bench, he could make some really, really, really bad
15 decisions because he was acting impulsively out of
16 emotion and outbursts?

17 A It could happen, yes.

18 Q Okay. And with regard to --

19 MR. LUBET: I never heard the black woman
20 thing before.

21 MS. ROSS: I'm sorry.

22 MR. LUBET: I didn't hear the black woman
23 thing before. That's one other thing -- I don't
24 need to see it.

25 MS. ROSS: You don't need to see it.

1 MR. LUBET: I've seen enough.

2 BY MS. ROSS:

3 Q And in 1991, displaying a handgun while
4 yelling at a Defendant leaving the courtroom. That's
5 the one. Is that attributable to ADHD?

6 A It could be.

7 Q Okay. And yelling at somebody and telling
8 them that he should be Judge Judy and be on TV and
9 directing the litigant to sit down and shut up, that's
10 attributable to ADHD?

11 A It could be.

12 Q So all of this conduct for a period of 14
13 years may have been the result of ADHD?

14 A It very well could have been.

15 Q Would you assume that if he ran into these
16 kind of problems 14 years ago and he told you that he
17 had been experiencing these kind of symptoms from
18 childhood, he would not have waited 14 years for
19 diagnosis and treatment?

20 A It is not uncommon for people to wait that
21 long and wait until they're in serious trouble to seek
22 help.

23 Q You're assuming he wasn't in serious trouble
24 14 years ago?

25 A I'm assuming that. I don't know.

1 Q Okay. Do you know whether, in fact, that
2 Judge Sloop on each and every instance promised the
3 Commission that he -- that they wouldn't see him again,
4 that he wouldn't have these problems again?

5 A I don't know that.

6 Q And that was why he escaped punishment the
7 other times.

8 A Well, he should have sought treatment then.

9 Q That's my point. And you would expect
10 somebody who has these kind of problems, explosive
11 temper, inappropriate statements, impulsive behavior,
12 which leads to improper incarceration of people. You
13 would expect them to have sought treatment long before
14 now; correct?

15 A Correct.

16 Q And with regard ADHD, ordinarily, I think you
17 said you see that the problems in interpersonal
18 relationships, I think that was one of the things that
19 Marc brought out, but when Judge Sloop came to see you,
20 he said that in summary of symptoms that his
21 relationship with -- his relationship with his wife,
22 that he was very happily married.

23 A Yes. He said it did interfere with his
24 relationship with his wife, but he does consider
25 himself to be happily married.

1 Q Happily married and he describe how it
2 interfered with his relationship with his wife.

3 A Well, I believe, he did, but I can't
4 remember. As I said, I didn't write that down.

5 Q You didn't chart it?

6 A No. I didn't chart it.

7 Q And what we reported after medication is that
8 his relationship with his wife was better?

9 A Was even better; yeah.

10 Q Okay. But in no sense did he give you -- in
11 no way did he give you the sense that he had problems
12 in his marriage as a result, he just thought it could
13 be better.

14 A Right. I remember him saying he would like -
15 - you know, he would leave things out that he was
16 supposed to put up because he didn't finish. He would
17 start something at home, but then he wouldn't finish
18 it.

19 His wife would, you know, nag at him about
20 that. Those type things. And that the second time he
21 said his wife was saying that she could see a
22 difference in him, you know.

23 Q Okay. And finally, you were asked whether or
24 not you had any reason to doubt Judge Sloop's self-
25 report. And the very first thing you said was, given

1 his occupation that you really didn't.

2 And that's my point. That because Judge
3 Sloop is a judge, you expect judges to be honest with
4 you; correct?

5 A That -- again, it just -- everything about
6 him points to him being an honest person. I mean, you
7 wouldn't expect somebody to be married for that many
8 years if they weren't an honest person, or to be in the
9 same occupation for that many years if they're not an
10 honest person.

11 Q Okay. But you also attributed high
12 significance to the fact of his occupation when you
13 indicated there was no reason to doubt his word.

14 A Well, yeah. I don't think that's any higher
15 significance than to the other things, though. I mean,
16 it's got to be taken as a whole picture.

17 Q And you don't know how educated he was on
18 ADHD --

19 A I do not.

20 Q -- before he ever came in and self-reported?

21 A No. I do not know that.

22 Q And finally, with regard to Mr. Lubet's
23 question, there really isn't any way for you to tell
24 whether or not this is all legitimate self-report or
25 whether it's a much of malarkey in order to escape --

1 malarkey being my word, in order to escape punishment
2 for serious problems?

3 A That's true.

4 MS. ROSS: Okay.

5 MR. LUBET: I got one more question.

6 MS. ROSS: Sure.

7 RECROSS EXAMINATION

8 BY MR. LUBET:

9 Q The medication, this is not -- I hope I'm
10 using the right term. It's not a placebo type? In
11 other words, this isn't just, take this, you'll feel
12 better. This is the real deal.

13 A Oh, no. This is --

14 MS. ROSS: Oh, no.

15 MR. LUBET: What do you know about the medic
16 ation
17 ?

18 MS. ROSS: I agree with you, it's not a
19 placebo. That the medication is not an issue.

20 BY MR. LUBET:

21 Q Then let me ask you this. If you do not have
22 ADHD, what would the medication do to you if you took
23 it?

24 A It could make you paranoid. It could make
25 you hallucinogenic. It could make -- it could be as

1 simple as just jittery. For some people, it'll make
2 them really tired actually. That would probably be the
3 main things.

4 Q So it does have some adverse effects if
5 you're not ADHD?

6 A Oh, absolutely. Absolutely.

7 Q And you're not getting reports, I'm assuming,
8 of any effects on Judge Sloop since he's taking this
9 drug?

10 A Oh, no. He doesn't appear to be jittery or,
11 like, wound up. You know, you would see them just
12 being alert, a lot of anxiety, more restless, if he
13 didn't have it.

14 Q So you have no indication that the medication
15 is not having an effect on the ADHD?

16 A Right.

17 Q In other words, all your indications are it
18 is having an effect?

19 A Right. Right.

20 Q Because you're not seeing any adverse
21 reaction as for person who does not have ADHD?

22 A Right.

23 MR. LUBET: Okay.

24 FURTHER REDIRECT EXAMINATION

25 BY MS. ROSS:

1 Q Does an adverse reaction happen in every
2 instance where the person is --

3 A If the person does not have ADHD?

4 Q Yes.

5 A I can't say that for certain. I would assume
6 that there were probably some people that could take it
7 and would not have an adverse reaction, but --

8 Q You don't know one way or another?

9 A No.

10 MS. ROSS: Thank you.

11 MR. LUBET: Doctor, thank you very much.

12 MS. ROSS: Thank you for your time.

13 [Whereupon, the reading and signing of the
14 deposition was waived.]

15 [Whereupon, the foregoing deposition was
16 concluded at 11:51 a.m.]

17 - - - - -

1 C E R T I F I C A T E

2 STATE OF FLORIDA:

3 COUNTY OF SEMINOLE:

4 I, Deborah Raeder Allen, Certified Electronic
5 Reporter and Transcriber, Notary Public, State of
6 Florida at Large, do hereby certify that I reported the
7 deposition of HEIDI NAPOLITANO, M.D., that the said
8 witness was first duly sworn by me.

9 I further certify that the foregoing pages
10 numbered 3 through 66, inclusive, constitute a true,
11 complete and accurate transcript of said witness to the
12 best of my skill and ability.

13 I further certify that I am not of counsel
14 for, nor related to any party herein or attorney
15 involved herein, nor am I financially interested in the
16 outcome of this action.

17 WITNESS MY HAND AND OFFICIAL SEAL this 2nd
18 day of November 2005.

19
20 DEBORAH RAEDER ALLEN, CERT*00246
21 Marge Raeder Court Reporter, Inc.
22 Certified Electronic Reporter and
23 Transcriber, Notary Public, State
24 of Florida at Large.

